

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 1/14/08

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

C-SHELL NAVIGATION S.A. PANAMA,

Plaintiff,

-against-

MAK GROUP and MOHAMAD ALI
KESSERWANI a/k/a MOHAMED ALI
KESSERWANI,

Defendants.

07 CV 6541 (McMahon)

STIPULATED ORDER
DIRECTING THE SETTLEMENT AND
DISCONTINUANCE OF ACTION

WHEREAS, Plaintiff C-SHELL NAVIGATION S.A. PANAMA ("C-SHELL") commenced this action on or about July 20, 2007;

WHEREAS, on application of the Plaintiff, Process of Maritime Attachment and Garnishment ("PMAG") was issued on July 20, 2007, pursuant to Supplemental Rule B directing the restraint of assets of Defendants MAK GROUP and MOHAMAD ALI KESSERWANI a/k/a MOHAMED ALI KESSERWANI (collectively "MAK Defendants") in the amount of \$350,779.00;

WHEREAS, the PMAG was subsequently served on several banking institutions, including but not limited to Garnishee DEUTSCHE BANK, STANDARD CHARTERED BANK and BANK OF NEW YORK

WHEREAS, Garnishee DEUTSCHE BANK has restrained and currently holds \$5,000.00 in funds belonging to Defendants;

WHEREAS, Garnishee BANK OF NEW YORK has restrained and is currently holding \$94,951.00 in funds belonging to Defendants;

-1- *Flot* 1-08

WHEREAS, Garnishee STANDARD CHARTERED BANK has restrained and is currently holding \$70,881.60 in funds belonging to Defendants;

WHEREAS, Plaintiff C-SHELL and the MAK Defendants have now executed a settlement agreement on their claims;

NOW THEREFORE, on application of the parties it is hereby:

ORDERED, that Garnishees DEUTSCHE BANK, BANK OF NEW YORK and STANDARD CHARTERED BANK immediately transfer the above-stated restrained funds to the following account:

EMIRATES BANK INTERNATIONAL PJSC
GALLERIA BRANCH, DUBAI
BENEFICIARY CUSTOMER/ 0044495600001
REGENCY AUTO ACCESSORIES AND MOBILE PHONES TRADING



A handwritten signature in black ink, appearing to read 'J. A. H. 1/14/08', is written over a date stamp that reads '1/14/08'.

IT IS FURTHER ORDERED that this action is discontinued with prejudice and without costs to either party.

Dated: New York, NY

January 9, 2008

MAHONEY & KEANE, LLP
Attorneys for Plaintiff
C-SHELL NAVIGATION S.A. PANAMA

By:

Jorge A. Rodriguez (JR 2162)
111 Broadway, 10th Floor
New York, NY 10006
Tel. (212) 385-1422
Fax (212) 385-1605
File No. 12/3428

Signature:

Name: _____
as representative of Defendants MAK
GROUP and MOHAMAD ALI
KESSERWANI a/k/a MOHAMED ALI
KESSERWANI
Bir Hassan Sara Panama Bldg., 3rd Floor,
Beirut, Lebanon

S O O R D E R E D

The Honorable Colleen McMahon, U.S.D.J.

1/14/08

IRREVOCABLE SETTLEMENT AGREEMENT - MV AIUD - C/P 27.11.06

IT IS IRREVOCABLY AGREED BETWEEN

(1) C-Shell Navigation SA ("Owners").

(2) (i) MAK Group
(ii) Mohamad Ali Kesserwani
(iii) MAK Group/Mohamad Ali Kesserwani
(together "Charterers").

AS FOLLOWS:

WHEREAS:

(A) Owners, as disponent owners of MV AIUD ("the Vessel") chartered the Vessel to Charterers pursuant to a charterparty dated 27 November 2006 for a voyage from Dokheila/Alexandria to Luanda (Angola).

(B) The Vessel loaded a cargo of 13,500 MT of bagged salt Voyage No. 01/06 Dated 27/11/2007 at Alexandria and discharged the cargo at Luanda - Port.

(C) Disputes have arisen between the parties regarding liability for demurrage at Luanda - Port. Owners have commenced arbitration proceedings against Charterers and claimed from them US\$248,175.00 plus interest and costs ("Owners' claims").

(D) Owners have attached the total sum of US\$170,832.60 (US Dollars One Hundred Seventy Thousand Eight Hundred Thirty Two & Sixty Cents only), belonging to Charterers by way of security for their claims passing through New York ("the New York Proceedings") pursuant to the attachments exercised by Mahoney & Keane, LLP in New York USA.

(E) Owners have also commenced arbitration against Charterers in London and Alan Oakley has been appointed as sole arbitrator in the arbitration.

(F) Owners and Charterers agree to settle irrevocably the dispute regarding discharge port demurrages and all claims, arbitration and counterclaims howsoever arising out of the above charterparty dated 27/11/2007 related to MV/AIUD voyage No. 01/06.

A. Kesserwani

S. A. J. Ali

IT IS HEREBY IRREVOCABLY AGREED AS FOLLOWS:

(1) Charterers agree to cede to Owners four attached bank transfers:

- DEUTSCHE BANK US\$ 5,000.00 (US Dollars Five Thousand Only)
- BANK OF NEW YORK US\$ 94,951.00 (US Dollars Ninety Four Thousand Nine Hundred Fifty One Only.)
- STANDARD CHARTERED BANK US\$ 70,881.60 (US Dollars Seventy Thousand Eight Hundred Eighty One & 60 Cents Only.)

corresponding to the total attached sum US\$ 170,832.60 (US Dollars One Hundred Seventy Thousand Eight Hundred Thirty Two & 60 cents only) in settlement of Owners' claims. On receipt of the sum of US\$ 170,832.60 Owners cedes irrevocably all rights, complaints, claims, appeals, arbitrations or seizures in force to any Court, including the arbitrator claim of Mr. Alan Oakley and the seizure pronounced by Mahoney & Keane LLP New York/USA at the United State District Court.

The amount of these ceded transfers represents an irrevocable settlement agreement of the main sum including interests, expenses, compensations, damages, fees and taxes related to the dispute between Owners and Charterers.

(2) In respect to this irrevocable settlement agreement, Owners irrevocably accept and approve the above said agreement; commit and undertake to deliver to the Charterers the decisions of confirmation pronounced by the relevant and competent authorities (i.e. The New York Proceedings) and the tribunals (i.e. Mr. Alan Oakley) of all estimated acts of the seizures and arbitration, where this claim and arbitration has been dismissed and lodged regarding the dispute mentioned at the presentation of this irrevocable settlement agreement, on condition that this cession includes the main right and claim within seven working days from the date the attached funds are sent to Owners' bank account. Owners discharge Charterers from all rights, complaints, claims, appeals, arbitrations or seizures in force to any Court related to the charter party dated 27/11/2007 related to MV/AIUD voyage No. 01/06.

(3) This agreement is in full, irrevocable, definitive and final settlement of Owners' claims, in respect of the above charterparty.

(4) Failure by Charterers to make payment pursuant to this agreement shall entitle Owners to elect either to make a claim under this agreement or re-activate the arbitration proceedings and pursue Owners' claims.

(5) Any disputes arising between the Parties in relation to the terms of this Settlement Agreement shall be governed by English law and referred to arbitration in London in accordance with the LMAA rules then in force. Such reference will be to a tribunal of three arbitrators, one appointed by either party, and the other appointed by the two so chosen. If any party fails to appoint an arbitrator following 14 days of a request to do so, the other party may, on giving 7 days' notice, appoint his arbitrator as sole arbitrator

M. Laike

A. Oakley

whose award shall be binding as if the dispute had been referred to a tribunal of three arbitrators.

Dated: 8th ^{January}
~~December~~ 2007

Signed: Mills & Co
Mills & Co on behalf of Owners

H. Stevans

Signed: Mohamed Ali Kesserwan ~~PAK~~
Mohamed Ali Kesserwan on behalf of Charterers

~~RENEWABLE CONTRACT~~